

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ARISE FOR SOCIAL JUSTICE; ¿OISTE?; NEW ENGLAND STATE-AREA CONFERENCE OF THE NAACP; REV. TALBERT W. SWAN, II; NORMAN W. OLIVER; DARLENE ANDERSON; GUMERSINDO GOMEZ; FRANK BUNTING; RAFAEL RODRIQUEZ; and DIANA NURSE,

Plaintiffs,

v.

CITY OF SPRINGFIELD and SPRINGFIELD ELECTION COMMISSION,

Defendants.

Civil Action No. 05-30080 MAP

**TRIAL AFFIDAVIT OF
MASSACHUSETTS STATE REPRESENTATIVE BENJAMIN SWAN**

I, Representative Benjamin Swan, hereby certify as follows:

1) I serve in the Massachusetts House of Representatives as the State Representative for the Eleventh Hampden District. I am an African American citizen of the United States and I am registered to vote in Springfield, Massachusetts. I have personal knowledge of the facts stated in this Affidavit.

2) I have lived in Springfield for the last eighteen years. I moved to Springfield for the first time in 1950, and I lived there on-and-off until I moved there permanently in approximately 1986.

3) I became involved with the National Association for the Advancement of Colored People ("NAACP") in the late 1950s. I helped organize a Springfield Chapter of the Congress of Racial Equality ("CORE") in 1963. In the mid-1960s, I served as Chair of the Springfield

Chapter of CORE. More recently, from 1991 to 1995, I served as Vice President and then as President of the Springfield Chapter of the NAACP.

4) In the 1950s, there was widespread and open racial discrimination in Springfield. For example, African American families were prevented by white residents from buying and renting homes in certain neighborhoods. African Americans were denied access to certain employment opportunities on the basis of their race. The police enforced the law in a discriminatory manner and engaged in racially motivated brutality against African Americans.

5) When I first moved to Springfield I wanted to go back to Mississippi because of the racist attitudes I encountered.

6) During the 1960s, the NAACP worked to eliminate racial discrimination in lending, insurance, housing, public accommodation, education, and other areas. The NAACP played a significant role in the debate over busing in Springfield.

7) During the 1960s, School Committee campaigns were dominated by the debate over busing to achieve racial equality in the schools. Candidates who supported busing were not elected to the School Committee. This affected elections for City Council as well during this period, because the School Committee was seen by many Springfield politicians as a "stepping stone" to the City Council.

8) During the 1960s, I considered running for a seat on the City Council. However, I decided not to run because I believed that Springfield's at-large election system made it virtually impossible for an African American candidate to win a seat on the City Council.

9) I did not support the adoption of the at-large election system. I saw what was happening in the South with at-large election systems, and I saw it as a way to dilute the black vote.

10) The first time I ran for public office was in 1972, when I campaigned for election to the Massachusetts House of Representatives from Springfield. At that time, Massachusetts had multi-member state representative districts.

11) In 1972, I ran in a district that elected two people to the House of Representatives. The district consisted of what were then Wards 3, 4, and 5. Ward 4 was predominantly African American, and Wards 3 and 5 were predominantly white.

12) I ran in 1972 as a Republican and I won the Republican primary. In the general election, I lost by fewer than 400 votes. The two candidates who won were white.

13) I believe that if Springfield had used single-member districts to elect its state representatives in 1972, I would have been elected.

14) Between 1972 and 1974, Massachusetts adopted a legislative districting scheme that used only single-member districts.

15) In 1974, I ran for State Representative in the newly configured, single-member district. African Americans constituted a majority of the population of that district. I again won the primary, but lost the general election to Raymond Jordan, who is African American.

16) I believe that the use of single-member districts in 1974 made it possible for Raymond Jordan to be elected. I believe that he could not have won in the former multi-member district.

17) In the 1980s, I again considered running for City Council. I again decided not to run because I believed that it was virtually impossible for an African American candidate to win in an at-large election.

18) I know other African American residents of Springfield who have told me that they considered running for either City Council or School Committee, but decided not to run

because they believed that an African American candidate is disadvantaged by Springfield's at-large system.

19) Springfield's at-large system for electing the City Council and School Committee makes it more difficult for African American and Latino candidates to win.

20) It is significantly more expensive to run an at-large campaign than a ward-based campaign. It is possible for a candidate to knock on every voter's door in a single ward. It is not feasible for a candidate to knock on every voter's door in the entire city. To win an at-large campaign, a candidate needs to purchase expensive advertisements in the newspaper, on the radio or on television that will reach voters across the city. These expenses make campaigning too expensive for many African American and Latino residents who otherwise might run for office.

21) When people have called me to ask me who to vote for in City Council elections, I have at times recommended that people bullet vote or just vote for one candidate rather than nine candidates, in order to give that candidate a better chance to get elected.

22) Around 1989-1990, I served as Staff Coordinator for Springfield's Black-Puerto Rican Coalition, a group of professionals who met approximately once a month to discuss issues affecting the African American and Hispanic communities in Springfield. These issues included the quality of the public schools, dropout rates, illiteracy, infant mortality, treatment and prevention of substance abuse, housing, employment in city government, and ward representation. I believe that these issues are still important to both the African American and Hispanic communities in Springfield today.

23) In 1991 and 1993, I ran for Mayor. In 1993, there were no other African American candidates. In 1991, there was one other African American candidate who entered the

race after I had announced that I would run. When I decided to run in each mayoral race, I knew that my chances of winning were very limited. I ran anyway because I wanted to raise issues that are important to the African American and Hispanic communities of Springfield, such as high school drop-out rates among students of color, competency rates among high school graduates, infant mortality, and race relations. I believed that these issues would not be adequately addressed by the other candidates. I did not win either election because I was not able to get enough white voters to vote for me.

24) In 1994, I was elected to represent the Twelfth Hampden District in the House of Representatives. I initially was elected in a special election when the incumbent, Raymond Jordan, resigned. Since then, I have been re-elected six times. In 2001, the Twelfth Hampden District was slightly reconfigured and renamed the Eleventh Hampden District.

25) African Americans form the largest racial group in the Eleventh Hampden District. According to the 2000 Census, the district is approximately 42% Black/African American, 25% Hispanic/Latino, and 29% white.

26) The African American vote has increased in the last 15 years. I have always been supported by African Americans. When I ran for Mayor in 1993 I won Ward 4, which is majority African American, but was defeated because I was not able to get enough white votes from other parts of the city.

27) Turnout is generally lower in the general elections for State Representative because of the partisan nature of elections. Once a candidate wins the primary, there is often no opposition in the general election, reducing voter turnout. I know this has happened in my elections where I had no opposition.

28) My Hispanic constituents have supported me in my State Representative elections. I campaign in the Hispanic community, using sound trucks that broadcast in Spanish and distributing campaign materials in Spanish.

29) Historically there has been racial discrimination in every aspect of life in Springfield. I see continuing evidence of racial discrimination in Springfield to this day.

30) In the 1960's, African Americans went to court to challenge the Springfield School Department's actions in assigning them to segregated schools. The court found that there was racial segregation in the schools resulting from the neighborhood plan used by the School Committee and they were ordered to change the neighborhood plan.

31) Springfield has a history of racial segregation in housing, resulting in segregated neighborhoods. Owners would not rent or sell houses to blacks. I remember one case where a white college student rented an apartment on State Street for herself and her black roommate. She was threatened with eviction when the landlord found out her roommate was black.

32) There was a group called Action For Equality that fought against discrimination and tested for housing discrimination in Springfield in the 1960's.

33) There is also a history of employment discrimination in Springfield. For many years major employers like Mass Mutual and Monarch refused to hire blacks altogether, or if they did hire them black men were only permitted to work in the mailroom and black women in maintenance. I myself was told I could not get a job at both Monarch and Mass Mutual because I was "overqualified".

34) Supermarkets also did not hire blacks, and when they did it was usually as baggers. When a black person became a manager it was noteworthy. Banks did not hire black tellers.

35) The City of Springfield itself has a poor record of hiring minorities. When Mayor Ryan hired a black secretary in the 1960's it was considered a big deal. Even today there are still few African Americans in prominent positions in city government.

36) A couple of years ago a Hispanic employee brought a discrimination case against Springfield's Personnel Department at the MCAD and won.

37) There were cocktail lounges and other places of public accommodation in Springfield that would not serve blacks, or when they did they charged blacks more for drinks than they charged whites.

38) I experienced discrimination in the education system first hand. When I moved in 1958 I transferred my children from the school they were attending which was predominantly black, to a predominantly white school. Both of my children were kept back a grade and I was told the black school "doesn't meet our standards".

39) Blacks could not obtain public housing in Springfield in certain developments such as Reed Village.

40) Unions that discriminate against minorities do a lot of work for the city. I am aware of a complaint made by a black carpenter against a construction company that was doing construction work for the city.

41) The newspaper in Springfield contributes to furthering racism by recognizing only white people as experts. They rarely call on me or other African American and Latino leaders, despite the fact that I have been in politics a very long time and am knowledgeable about many issues.

42) I have been at events where I have had my picture taken with a white person and when the picture was published in the newspaper I was cut out and only the picture of the white person I was standing next to appeared.

43) There is continued police harassment and mistreatment of African American and Latinos in Springfield. Just a few weeks ago two African American women alleged that they were roughed up by a white, off-duty police officer called them a racial epithet.

44) I receive numerous complaints from my African American and Latino constituents about being stopped and harassed by the police in Springfield. People complain about being stopped by the police just for being black or Latino, being harassed and sometimes beaten, and being unfairly arrested. There are police complaint forms at the Urban League because some people do not want to go to the police station to file a complaint for fear of further harassment.

45) My office regularly receives complaints of racial discrimination in public and private employment and public education. We also receive complaints of police brutality. We refer some of these complaints to the Massachusetts Commission Against Discrimination (“MCAD”). I have served as an advocate for one of my constituents before the MCAD in a case involving racial discrimination in City employment. The allegations in that case were substantiated by the MCAD. I was involved in another constituent case that was settled by Springfield’s Superintendent of Schools before it reached the MCAD. I also am aware that a number of complaints referred by my office to the MCAD resulted in favorable decisions for the complainants, particularly with regard to employment in the Springfield construction industry.

46) I believe that I receive more complaints about city issues than other State Representatives in the Commonwealth because my constituents perceive the Springfield City

Council and School Committee to be unresponsive to their needs. My office regularly receives complaints from my constituents about city services, including police-community relations, police response times, potholes, trash dumping, the assessor's office, water and sewage.

47) I believe that my constituents are more comfortable bringing their complaints to me because I am their most local elected official. Some of my African American constituents may also come to my office first because they feel comfortable interacting with an elected official who is African American. I get a lot of constituent complaints that would ordinarily go to a City Councilor. Because many people do not have a city councilor from their neighborhood they often come to me.

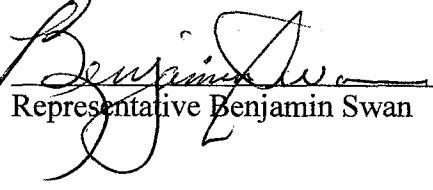
48) I receive many walk-in visitors at my district office in Springfield. In order to visit members of the City Council and School Committee, my constituents would need to go outside of their neighborhood to downtown Springfield.

49) I believe that district elections for City Council and School Committee would be more democratic and constitute a better form of government. District elections would be less expensive, allow candidates to go door to door, allow voters to get to know who is running, and result in increased interest in the election and therefore increased turnout.

50) There is no doubt in my mind that district elections would bring Latinos and African Americans together to elect candidates who best represent their interests.

51) The at-large election system has resulted in many Springfield neighborhoods not having a representative on the City Council. This causes voters to feel alienated from the political process. All areas of the city need to have representation.

Signed under penalties of perjury, this 30th day of January, 2007.



Representative Benjamin Swan

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 2, 2007.

/s/ Paul E. Nemser